

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

FRANCISCO VIDAL,

Case No. 2:19-cv-01688-JCM-EJY

Plaintiff

ORDER

v.

STEVE SISOLAK et al.,

Defendants

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former state prisoner. On May 13, 2020, this court issued an order directing plaintiff to file his updated address and an application to proceed *in forma pauperis* by a non-prisoner with this court within 30 days. (ECF No. 6 at 2). The 30-day period has now expired, and plaintiff has not filed his updated address, filed an application to proceed *in forma pauperis* by a non-prisoner, or otherwise responded to the court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the court must consider several factors:

1 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
4 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
5 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

6 Here, the court finds that the first two factors, the public's interest in expeditiously  
7 resolving this litigation and the court's interest in managing the docket, weigh in favor of  
8 dismissal. The third factor, risk of prejudice to defendants, also weighs in favor of  
9 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
10 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
11 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
12 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
13 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
14 the court's order will result in dismissal satisfies the "consideration of alternatives"  
15 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
16 F.2d at 1424. The court's order requiring plaintiff to file his updated address and file an  
17 application to proceed *in forma pauperis* by a non-prisoner with the court within 30 days  
18 expressly stated: "It is further ordered that, if plaintiff Vidal fails to timely update his  
19 address and file an application to proceed *in forma pauperis* by a non-prisoner or pay the  
20 full filing fee of \$400, the court will dismiss this case without prejudice." (ECF No. 6 at 3).  
21 Thus, plaintiff had adequate warning that dismissal would result from his noncompliance  
22 with the court's order to file his updated address and an application to proceed *in forma*  
23 *pauperis* by a non-prisoner within 30 days.

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It is further ordered that the clerk of court will enter judgment accordingly.

James C. Mahan  
UNITED STATES DISTRICT JUDGE